



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 4, 2019
MOAHR Docket No.: 19-009369
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 26, 2019, from Lansing, Michigan. The Petitioner appeared and personally testified unrepresented. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearings Facilitator.

ISSUE

Did the Department properly reduce Petitioner's FAP benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner's FAP case was scheduled for a redetermination in July 2019. At that time, the Department determined that Petitioner's countable unearned income increased from \$ [REDACTED] to \$ [REDACTED]
2. On August 13, 2019 the Respondent issued a Notice of Case Action informing Petitioner that effective the new certification period beginning September 1, 2019 that Petitioner's benefits will be \$ [REDACTED]
3. Petitioner's expenses exceed Petitioner's income.
4. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner had increases RSDI and SSI income. The increase resulted in a reduction in FAP benefits from \$73.00 to \$ [REDACTED] effective September 1, 2019.

Applicable policy and procedures are found at BEM 554, 550, and 556. Applicable corresponding federal regulations are found at 7 CFR 273.2, 273.9, and 273.10.

In welfare eligibility cases, the individual asserting eligibility has the burden of proof by a preponderance of evidence.

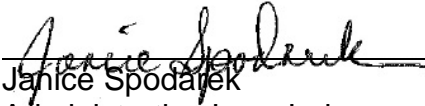
Here, Petitioner does not dispute the income or expenses used in calculating Petitioner's FAP budget. Nor does the Department dispute the fact that Petitioner's expenses exceed Petitioner's income. However, unless Petitioner can show that any of Petitioner's expenses are allowed on the FAP budget under federal and state law, they cannot be deducted. Here, Petitioner did not.

After a careful review of the credible and substantial evidence of record, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it reduced Petitioner's FAP benefits effective September 1, 2019 with the new certification period. Thus, the reduction must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



Janice Spodarek
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Susan Noel
26355 Michigan Ave
Inkster, MI
48141

Wayne 19 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED], MI